

87
Preliminary Legislative Report

of

Special Committee of the
Board of Aldermen

of

The City of New York

Appointed to Investigate the Police
Department, Pursuant to Resolu-
tion Dated August 5, 1912

Preliminary Legislative Report

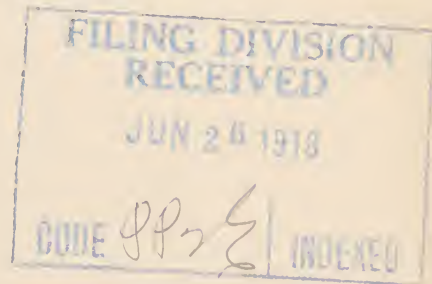
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Special Committee of the Board of Aldermen

of

The City of New York

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The Special Committee, appointed August 5, 1912, by the Board of Aldermen of New York City, to investigate the Police Department, submits the following preliminary legislative report:

Nature of This Report.

This preliminary report upon legislation is submitted at this time in order that it may be available for use during the present session of the Legislature. In its final report the Committee will make a summary of its entire investigation, and set forth therein its general conclusions and recommendations upon administrative matters.

Need of Legislation.

The police problem is primarily one of administration. The present situation demands sustained administrative efficiency. There is no magic in the legislative printing press. New legislation should be chiefly for the purpose of improving the administrative machinery of the Police Department. Sections of the Charter needing amendment, together with the amendments recommended, we have scheduled in Appendix A. Bills now pending before the Legislature, with our recommendations thereon, we have scheduled in Appendix B.

Home Rule.

The administration of the Police Department has been hampered by mandatory state legislation, controlling administrative routine. This is inimical to efficiency and subversive of discipline. State

laws at present deal with the organization of the department, its different ranks, grades, salaries, qualifications for appointment and promotion, manner of distribution of the force, platoons and tours, structure and quota of the detective bureau, traffic squad, the suspension, trial and punishment of delinquent policemen, etc. All such matters should be left entirely to local authorities.

The Police Commissioner.

**Appointment,
Tenure,
Removal.**

The Police Commissioner should be appointed by the Mayor for a term of eight years, and should be eligible for reappointment. He should be subject to removal by the Governor, and also by the Mayor, but in either case only after charges preferred and after he has been given opportunity to defend himself in a public hearing.

**Charges may be
preferred by
Board of Estimate
and Apportion-
ment or Board of
Aldermen.**

In addition to the right of the Mayor to prefer charges, the Board of Estimate and Apportionment or the Board of Aldermen, by majority vote, should be given the power to prefer charges against the Police Commissioner, and it should be provided that such charges must be heard by the Mayor at a public hearing, after reasonable notice.

This change should not take effect until January 1, 1914.

**Uncertain
Tenure
Destroys
Discipline.**

We believe this recommendation to be of vital importance. During the past eleven years we have had eight commissioners appointed by Mayors of different temperaments and political faiths. There have been three Commissioners during the present city administration. The brief and uncertain tenure of the Commissioner has seriously impaired the efficiency of our police administration. Former Commissioners have testified before us that the force does not respect its head. Captains and inspectors upon our witness stand have shown this lack of respect. This is a deplorable situation, and should not be tolerated.

It has been said that the policy of the Police Department should be the Mayor's care and responsibility, and that he should have the power to remove the Commissioner at will. The appointment of a Commissioner should not be a matter of politics. Moreover, there should be no such thing as a "policy" with respect to the enforcement of law. Unenforceable laws should be repealed. People who disapprove of them should seek relief from the Legislature, not from the Police Department. The Police Department should no more have a "policy" with respect to the enforcement of law than the United States army should have a policy in foreign affairs.

Should be no
"policy" of
enforcement
of law.

In this respect the Police Department is essentially different from other departments. Moreover, it is unique in its difficulties and problems. Hence, eight commissioners in eleven years. The Commissioner must have long experience in the department to become efficient. General Bingham, who has served the longest period as Commissioner, has testified before us that it takes between one and two years for a Commissioner to acquaint himself with the conditions and circumstances confronting him. The Commissioner should know the history and character of every superior officer. He should study and learn the spirit of the force at large, in order that he may sympathize with it, or combat it, as occasion requires.

Police
Department
Unique.

Deputy Commissioners and Inspectors.

The increase or decrease in the number of Deputy Commissioners should be determined by the Board of Estimate and Apportionment and the Board of Aldermen. The present method of appointment and demotion of inspectors should be continued, but the power to alter this method should be vested in the Board of Estimate and Apportionment and

Number of
deputies and
inspectors to be
determined by
local authorities.

Chief of Police
with fixed powers
not favored.

the Board of Aldermen, and not controlled by legislative enactment. We have been much impressed with Mayor Gaynor's suggestion that more deputies and fewer inspectors are needed just at the present time. We think it important that a Commissioner should be able to choose a uniformed cabinet as well as a civilian cabinet, and these in such numbers as occasion requires. Therefore we do not favor the appointment of a permanent Chief of Police. A Commissioner should have power, as at present, to select a Chief Inspector as the head of the uniformed force, and to prescribe for him appropriate duties and authority. To create a Chief of Police with authority fixed by law would be to create a subordinate more powerful within the limits of his authority than the Commissioner.

Gambling and Prostitution.

Studied only as
police problems.

The Committee has considered these subjects only as they involve police problems under present laws. We have not studied them as moral problems. Such investigation would have been beyond the scope of the resolution under which the Committee was appointed. We have received shocking evidence of a widespread corrupt alliance between the police and gamblers and disorderly house keepers. The elimination of this grafting is one of the most difficult and important problems with which we are confronted. Believing, however, that the problem is essentially an administrative one, we shall deal comprehensively with it in our final report. We feel that a Commissioner with a fixed tenure, with an adequate staff of deputy commissioners, with an ample fund for the engagement of a secret service entirely outside of the department, would in time secure and maintain an administrative efficiency that would reduce this evil to a minimum.

Graft to be
eliminated by
effective
administration.

Department of
Public Morals
opposed.

We are opposed to transferring the enforcement of these laws to a Department of Public Morals, as

provided in a bill now pending before the Legislature. We are also opposed to the suggestion that a Board of Social Welfare be established for the same purpose.

These suggestions have been almost unanimously condemned by former commissioners, deputy commissioners, and other public men appearing before us.

The responsibility for law enforcement should not be divided between two commissioners or agencies.

To place the responsibility in the hands of 200 or 300 "morals policemen" would have a tendency to lose the information which should result from the daily observations of 10,000 policemen covering every square inch of the City of New York. Evidence before us has shown that a proper system of reports from the latter would be of inestimable value to a Commissioner in ascertaining conditions and enforcing these laws.

Such department
would divide
responsibility;

Contact cannot be entirely removed because policemen must still enter gambling and disorderly houses and saloons for the purpose of enforcing laws against larceny, burglary, assault, murder and many other crimes. This might cause either friction or collusion between the two police forces, and would not eliminate the collection of graft.

cannot remove
contact;

The standard of men deliberately enlisting for service in a department having jurisdiction only over gambling and disorderly houses, whether recruiting from within or without the Police Department, would certainly be very low.

would lower
standard of men;

The suggested bills provide that there shall be no civil service restriction, and thus they turn back the clock of civil service reform.

would be against
civil service
reform;

Moreover, even if any such change be desirable, it is clearly a subject which should be left entirely to local administrative and legislative authorities.

matter for local
determination.

Excise.

**Home Rule
recommended.**

We recommend that excise regulation for the City of New York be determined by local legislative authority. We feel that this subject is essentially one demanding home rule.

Pensions.

**No legislation
until completion
of investigation.**

We are having made a thorough and exhaustive study of the pension system of the Police Department, including its past workings and probable future results to the taxpayers of the City. We have gone far enough to discover that a pension fund once boasting a surplus is now bankrupt, and making constantly increasing demands. A trained corps of experts is making this investigation, which is not yet completed. Any recommendation by us at this time would be premature. We think no pension legislation placing a further load upon the City should be passed at the present session. We shall deal with the subject fully in our final report.

Rogues' Gallery.

**Photographs and
measurements of
those held by
magistrate on
felony charge.**

**Removal after
acquittal
discretionary
with court.**

We recommend a law authorizing the Police Department to photograph and take finger prints and measurements of all persons held by a magistrate or on a bench warrant upon a charge constituting a felony. In the event of the acquittal of the defendant, the return of these records to be ordered in the discretion of the judge trying the case. In the event of a dismissal of the charge by the Grand Jury, the records to be returned to the defendant upon application. A law to this effect has been strongly urged before us by judges, district attorneys and officials of the Police Department, past and present.

Special Patrolmen.

We recommend that no special patrolmen be appointed until a bond has been filed to indemnify those who may suffer by misconduct of such special patrolmen.

Boiler Squad.

The inspection of steam boilers and the licensing of stationary engineers are not police functions, and should be placed under a bureau to be established for that purpose by local authorities.

House of Detention.

The House of Detention for witnesses should be removed from the Police Department, and should be placed within the jurisdiction of the Department of Correction.

MISCELLANEOUS SUBJECTS.

Administrative Routine.

We recommend changes in various minor matters of administrative routine, as will appear more fully in Appendix A.

Perjury.

We endorse the recommendation of the District Attorney that the Penal Law should provide that anyone who swears upon two different occasions in a criminal proceeding in a materially different way, upon a material point, should be liable to punishment without reference to which statement be true and which false. Although the District Attorney and the court see perjury wilfully committed in the recantation of statements, it is usually impossible

Would stop
"turning out"
cases.

to prosecute, because of lack of proof as to which statement is true and which false. This will reach the evil of police officers "turning out" cases.

Health Department.

We recommend that the Police Commissioner be relieved from his duty as a member of the Board of Health. His duties in the Police Department are more than enough to occupy his time and energy.

Respectfully submitted,

HENRY H. CURRAN,

Chairman;

RALPH FOLKS,

JAMES HAMILTON,

O. GRANT ESTERBROOK,

W. AUGUSTUS SHIPLEY,

FRANK L. DOWLING,

FRANCIS P. KENNEY,

JAMES J. SMITH.

ROBERT F. DOWNING,

Secretary.

EMORY R. BUCKNER,

Counsel.

APPENDIX A.

Suggested Amendments to Specific Sections of the New York Charter.

Section 270. Police Commissioner—Salary; Deputies; Salaries, Etc.

This section should be amended to conform to the recommendations heretofore made. The Commissioner should be appointed upon January 1, 1914, for a period of eight years, should be eligible to re-appointment, should be removable either by the Governor or the Mayor, but only upon charges, and after a public hearing.

In addition to the right of the Mayor to prefer charges, the Board of Estimate and Apportionment or the Board of Aldermen, by majority vote, should be given power to prefer charges against the Police Commissioner, and it should be provided that such charges must be heard by the Mayor at a public hearing, after reasonable notice, and with opportunity for the Commissioner and witnesses to be heard.

The salary of the Commissioner, the number of deputies and their salaries, should be determined by the local authorities.

Section 272. Police Commissioner; Authority To Make and Enforce Rules and Regulations.

Should be amended to give the Police Department the undisputed right to photograph and take finger prints and identification measurements of all persons held by a magistrate, or upon a bench warrant, upon a charge constituting a felony. In the event of a discharge by the Grand Jury, the defendant should have the right to receive from the Police Department these records. In the event of an acquittal upon an indictment, it should be left to the dis-

cretion of the judge trying the case, whether the defendant should receive these records.

Section 284. Police Force; Qualifications of Members; Publishing Names and Residence of Applicants and Appointees.

Should be amended, substituting for the "City Record" two daily papers in New York City of at least 100,000 paid circulation.

Section 288. Promotions.

The length of time in which a patrolman must have served in a particular grade before being eligible for promotion should be left to the Civil Service Commission.

The provisions with reference to inspectors should be left as at present, except that the word "nineteen" should be stricken out, leaving the number of inspectors to be determined by the local authorities.

Section 290. Central Office Bureau of Detectives.

The grades and salaries of detectives, and the maximum number thereof should be determined by the local authorities.

Section 292. Police Commissioner; Duties and Powers.

Should be amended, giving the Commissioner power to suspend policemen without pay pending investigation of alleged misconduct and trial of charges. If the charges are dismissed, no pay to be forfeited. Under the present law the Commissioner has no right to suspend without pay until the service of written charges. If the charges are sustained, pay can be forfeited under the present law only from the time of suspension after written charges have been served, and not from the time of suspension before such service of written charges.

The last sentence of this section, "Said Police Commissioner may grant leaves of absence to members of the force for a period not exceeding five days," is apparently modified by Section 303. In any event, it should be repealed for reasons given under Section 303.

Section 299. Salaries of Officers and Members of the Force.

The creation of grades, ranks and the fixing of salaries should be determined by the local authorities.

Section 300. Police Commissioner; Rules, Etc., For Government and Discipline of Police Department and Police Force; Trials; Dismissals.

The mandatory direction to the Commissioner to provide two places for trials of policemen, each covering certain boroughs, should be repealed. This is a matter of administrative routine and should be left to the discretion of the Police Commissioner.

To make this section conform to the recommendation made under Section 292, with reference to suspension, the word "suspended" should be stricken out in the sentence providing that no man shall be suspended until written charges have been preferred against him.

The word "reprimanded" should be stricken out because the Commissioner will have power under another section to reprimand a policeman, after a trial and upon conviction, and it may well be that some future Commissioner will desire to establish a system of demerits or reprimands by captains and inspectors. The presence of this word "reprimanded" in this section might prove an obstruction. It serves no useful purpose as it stands, because it preserves no substantial right.

*Section 302. Police Commissioner; Punishments
by; Limitations of Suits for Reinstatements,
Etc.*

The Commissioner should be given the right to delegate to a Deputy, or to any member of the uniformed force, power to conduct trials and impose punishment upon delinquent policemen. The Commissioner should have the right to revoke or modify any such punishment within thirty days from the time of its imposition. This is extremely important. Although the law provides that the Commissioner may delegate the power to conduct a trial to a Deputy, he himself must find the delinquent guilty and assess the punishment. The Corporation Counsel has written an opinion recently to the effect that in *all cases* the Commissioner must read the minutes of the trial, unless he himself presided thereat. Heretofore it has been the practice for the Commissioner to read the minutes only in those cases where dismissal was imposed as a punishment. During 1911 two thousand three hundred and eighty-eight members of the Department were either fined or punished. The Commissioner, under the opinion of the Corporation Counsel, must read the minutes in every case, and personally impose the punishment. This places too much burden upon the Commissioner. The provision that the Commissioner may modify or revoke the sentence of a Deputy or member of the uniformed force gives sufficient protection to policemen and prevents any subordinate from having more power than the Commissioner himself. The recommendation that this right of delegation be extended to members of the uniformed force is made because a Commissioner may desire to establish a system of trial for minor offences by captains and inspectors. It is a waste of time to try men at headquarters for appearing in broken collars or unblackened boots.

The Commissioner should have the right in his discretion to have forfeited or withheld in monthly installments the pay of policemen fined.

Section 303. Police Force; Resignation and Absence on Leave.

The twenty-day limit should be repealed. Occasions frequently arise where policemen are called upon to perform extended extra duty. Strikes, riots, emergencies of various kinds impose hardships. The Commissioner should have the right to compensate for unusual service by granting leaves of absence with pay. If he cannot be trusted with such a detail, he should not be trusted with the Police Department.

That portion of this section dealing with resignations has given rise to considerable discussion by witnesses before us because of ambiguities. We suggest that it be amended to read as follows:

“Under penalty of dismissal, no member of the police force shall withdraw or resign, except by the permission of the Police Commissioner. If any member of the police force be absent for five consecutive days without leave, the Commissioner may, in his discretion, dismiss such member without notice or trial.”

Section 308. Police Force; Special Patrolmen; When May Be Appointed; Military Assistance.

One of the several objections urged against the appointment of special patrolmen is that the corporation or individual employing them is not liable for their misconduct, since they are peace officers. We recommend that this section be amended to provide for the filing of a bond in the sum of \$2,000, for each special patrolman to indemnify anyone injured through his misconduct.

Sections 312, 313, 314.

These sections provide for the detail of police officers to the Department of Health, the Department of Public Parks, and the Department of Bridges. A section in the Tenement House Law also provides for the detail of police officers to the Tenement House Department. These provisions should be repealed. We have not been impressed by the reasons advanced for this farming out of policemen to other city departments.

Section 321. Police Commissioner; To Provide Accommodations for Detention of Witnesses.

We agree with Commissioner Waldo and many of his predecessors that the House of Detention should not be under the jurisdiction of the Police Department. It should be transferred to the Department of Correction.

Sections 342-345. Boiler Inspection and Stationary Engineers.

We recommend that boiler inspection and licensing of engineers be removed from the Police Department and placed under the charge of a bureau to be established for the purpose by local authorities.

Section 350. Special Patrolmen for District Telegraph Officers.

Should be repealed, provision for special patrolmen being made by Section 308.

Sections 351-358. Police Pensions.

No pension legislation whatever should be enacted at this session, for reasons already given.

Section 1543-A. Police and Fire Commissioners May Rehear Charges and Reinstate Members of Force.

We recommend the repeal of this section. Our investigation shows conclusively that its provisions

are inimical to discipline. The present right of a dismissed policeman to secure a court review affords him ample protection against an unjust dismissal.

Three Platoon Law.

The present three-platoon law should be continued until changed by local authorities. All such matters should be determined by local legislation.

APPENDIX B.

*Pending Bill Affecting Administration of the Police
Department, to which our Attention has been
Called.*

Assembly No. 1225, Int. 1146, Mr. Hammer.

Authorizes the Police Commissioner, in his discretion to reinstate William H. Finley, a resigned member of the Police Department, to the position of patrolman. It recites that William H. Finley resigned from the Department in 1902. We oppose this bill as special legislation.

Assembly No. 282, Int. 278, Mr. Taylor.

Amends Section 1543-a of the Charter, extending the operation of such section to include a demotion as well as a dismissal. Inasmuch as we favor a repeal of Section 1543-a, we oppose this extension.

Assembly No. 293, Int. 289, Mr. Ingram.

Identical with above.

Assembly No. 567, Int. 553, Mr. Ingram.

Identical with above.

Assembly No. 1157, Int. 1084, Mr. McMahon.

Provides for the absorption of the members of the Aqueduct Police into the Police Department of New York City, without examination or qualification. We oppose this bill, because such matters should be determined by local authorities.

Assembly No. 1043, Int. 991, Mr. Greenberg.

Creates a Department of Public Morals to take charge of the enforcement of laws regarding gam-

bling, prostitution and excise. It creates a large staff of captains, lieutenants, sergeants, doormen, surgeons and policemen, all "public morals" officers, without any civil service restrictions. We oppose this bill for reasons already given.

Senate No. 156, Int. 154, Mr. Griffin.

Fixes salaries of members of the police force. Salaries should be determined by the local authorities.

Assembly No. 458, Int. 453, Mr. Willmott.

Provides that a member of the force arrested for a crime, shall not be dismissed upon charges based upon the same facts until final determination of the criminal charge.

This is inimical to discipline, and an interference with administrative routine. Members of the Police Department awaiting trial upon criminal charges should not be continued in the Department if the Commissioner has in his possession facts sufficient to justify their dismissal.

Senate No. 663, Int. 608, Mr. Boylan.

This bill provides that no fine or demerit shall be counted against a member of the Police or Fire Department for promotion unless the same has been imposed within three years of the time of examination for promotion. We oppose it as an interference with civil service administration.

Assembly No. 738, Int. 709, Mr. Caughlan.

Identical with above.

Senate No. 420, Int. 399, Mr. White.

Amends the present three-platoon law. We oppose all such laws because they should be determined by local legislation.

Senate No. 770, Int. 710, Mr. Frawley.

Provides that police matrons shall receive the same salary as patrolmen. We oppose this bill because salaries of members of the Department should be determined by local authorities.

Police administration in New York City can never become efficient so long as bills similar to these here scheduled are passed by the Legislature. Matters of administrative routine must be left to the Police Commissioner. Matters of Civil Service administration must be left to the Civil Service Commission. Matters of police quota, ranks, grades, salaries must be left to the Board of Estimate and Apportionment and the Board of Aldermen.

